

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES DOUGLAS PERRY, JR.,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:21-CV-820-WHA-KFP
)	(WO)
US MARSHALS SERVICE, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On December 1, 2021, James Douglas Perry, Jr., a federal detainee at the Montgomery County Detention Facility (“MCDF”) in Montgomery, Alabama, filed a civil action alleging various violations of his constitutional rights by staff members at MCDF. Doc. 1. Although Perry applied for leave to proceed in forma pauperis, he did not submit the required documentation from MCDF’s inmate account clerk showing his average monthly balance and average deposits to his inmate account over the last six months. Thus, the documents Perry filed failed to provide the Court with the information necessary to determine whether he should be allowed to proceed without prepayment of filing fees.

Accordingly, on December 23, 2021, the Court entered an Order directing Perry to file a jail account statement from the inmate account clerk showing the average monthly balance and average monthly deposits in his jail account for the six-month period immediately preceding the filing of this civil action by January 6, 2022. Doc. 3. The Court specifically cautioned Perry that his failure to comply with its Order would result in a recommendation by the undersigned Magistrate Judge that his case be dismissed. *Id.* at 2.

The deadline for Perry to comply with the Court's December 23 Order has passed without Perry filing a jail account statement from MCDF's inmate account clerk. Consequently, the Court concludes that dismissal of this action without prejudice is appropriate. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, generally, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice because Perry has failed to comply with the Court's Order that he file an appropriate jail account statement from MCDF's inmate account clerk.

It is further

ORDERED that, on or before **March 3, 2022**, the parties may file objections to this Recommendation. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which the objection is made. Frivolous, conclusive, or general objections to the Recommendation will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. 11th Cir. R. 3-1; *see Resol. Tr. Corp. v.*

Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 17th day of February, 2022.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE
UNITED STATES MAGISTRATE JUDGE